

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Squad #5	CCRB Case #: 201509017	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 10/04/2015 8:45 PM	Location of Incident: West 109th Street and Manhattan Avenue; 24th Precinct stationhouse	Precinct: 24	18 Mo. SOL 4/4/2017	EO SOL 4/4/2017	
Date/Time CV Reported Thu, 10/15/2015 1:35 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 10/15/2015 1:35 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jacob Aaronson	00044	941300	SOD SRG
2. POM Steven Oquendo	01649	950985	SOD SRG

Officer(s)	Allegation	Investigator Recommendation
A.POM Steven Oquendo	Force: At West 109th Street and Manhattan Avenue in Manhattan, Police Officer Steven Oquendo used physical force against § 87(2)(b)	
B.POM Jacob Aaronson	Force: At West 109th Street and Manhattan Avenue in Manhattan, Police Officer Jacob Aaronson used physical force against § 87(2)(b)	
C.POM Jacob Aaronson	Abuse: At the 24th Precinct stationhouse, Police Officer Jacob Aaronson damaged § 87(2)(b)'s property.	

Case Summary

At approximately 8:45 p.m. on October 4, 2015, § 87(2)(b) was riding his bicycle on West 110th Street in Manhattan. At the intersection with Manhattan Avenue, he made a left turn in front of a marked patrol car with Police Officer Steven Oquendo and Police Officer Jacob Aaronson of Special Operations Division Strategic Response Group 1 inside. Police Officer Oquendo and Police Officer Aaronson followed § 87(2)(b)'s bicycle and stopped him at West 109th Street and Manhattan Avenue. The officers informed § 87(2)(b) that he had "ran" a red light and had obstructed their vehicle and requested his identification. § 87(2)(b) refused to provide his identification. Police Officer Oquendo and Police Officer Aaronson attempted to forcibly handcuff § 87(2)(b) causing him to fall to the ground (**Allegations A and B**). Once on the ground, the officers handcuffed § 87(2)(b) with his backpack still on his back. § 87(2)(b) was then transported to the 24th Precinct stationhouse. At the 24th Precinct stationhouse, Police Officer Aaronson cut the straps of § 87(2)(b)'s backpack (BR01-06) and removed it from his back while § 87(2)(b) remained in handcuffs (**Allegation C**).

§ 87(2)(b) was arrested and charged with § 87(2)(b) (BR07).

No video footage was obtained for this incident.

Mediation, Civil and Criminal Histories

As per the Comptroller's Office, as of January 21, 2016, no Notice of Claim had been filed in regards to this incident. As a result of § 87(2)(b)'s arrest, this complaint was deemed unsuitable for mediation. On December 1, 2015, § 87(2)(b)'s court case stemming from this incident was adjourned in contemplation of dismissal on § 87(2)(b) (BR08). § 87(2)(b) has no prior convictions.

Civilian and Officer CCRB Histories

- This is the first CCRB case involving § 87(2)(b) or his mother, § 87(2)(b) who filed this complaint but did not witness the incident (BR09).
- Police Officer Aaronson has been a member of the NYPD for nine years and has had 16 previous CCRB allegations in 11 cases with no substantiated allegations. Police Officer Aaronson has seven prior allegations of physical force. Of these, one allegation was exonerated, four were unsubstantiated, and two were closed as complainant uncooperative.
- Police Officer Oquendo has been a member of the NYPD for four years and has had nine previous CCRB allegations in five cases with no substantiated allegations. Police Officer Oquendo has five prior allegations of physical force. Of these, two allegations were unsubstantiated, one was unfounded, one was administratively closed, and one was closed as victim uncooperative.

Potential Issues

As per both § 87(2)(b) and the officers, several individuals stopped and watched the incident as it occurred. The investigation was only able to identify and obtain a statement from one of these witnesses, § 87(2)(b).

Several officers from the 24th Precinct responded to the incident following a request for assistance by Police Officer Aaronson and a 911 call by § 87(2)(b) (BR15). However, as per both § 87(2)(b) and Officers Aaronson and Oquendo, these additional officers arrived after § 87(2)(b) was handcuffed and after the physical force allegations had concluded.

Findings and Recommendations

Explanation of Subject Officer Identification

Both Police Officer Aaronson and Police Officer Oquendo acknowledged their involvement in struggling with and handcuffing § 87(2)(b) and both identified Police Officer Aaronson as the officer who cut the straps on § 87(2)(b)'s backpack. Physical force allegations were pleaded against both officers and a property damage allegation was pleaded against Police Officer Aaronson.

Allegations not pleaded

It is undisputed that Police Officer Aaronson and Police Officer Oquendo stopped § 87(2)(b)'s bicycle for allegedly cutting across traffic and forcing the officers' vehicle and other vehicles to stop suddenly and that they charged him with obstructing vehicular traffic in regards to this. A vehicle stop allegation was therefore not pleaded in regards.

§ 87(2)(b) alleged that, when he received his rain coat back from officers, his detachable hood was missing. An IAB spin-off, CCRB case # 201510011, was created in regards to this allegation and is therefore not pleaded in this case.

In her written complaint, § 87(2)(b) who did not witness the incident, alleged that an officer placed his knee on § 87(2)(b)'s neck. In his statement to the CCRB, § 87(2)(b) specified that the officer, Police Officer Oquendo, placed his knee on his head, not his neck, and his breathing was never restricted. No restriction of breathing or chokehold allegation was therefore pleaded.

Recommendations

Allegation A – Force – At West 109th Street and Manhattan Avenue in Manhattan, Police Officer Steven Oquendo used physical force against § 87(2)(b)

Allegation B – Force – At West 109th Street and Manhattan Avenue in Manhattan, Police Officer Jacob Aaronson used physical force against § 87(2)(b)

The original complaint was filed via postal mail by § 87(2)(b) who did not witness the incident. § 87(2)(b) was interviewed at the CCRB on November 19, 2015. A telephone statement was obtained from § 87(2)(b) on November 20, 2015 (BR10). Police Officer Aaronson and Police Officer Oquendo were interviewed on December 8, 2015.

While there are disputed details, the general contours of this incident are undisputed. Police Officer Aaronson and Police Officer Oquendo were in a marked SUV which was stopped at a red light at the intersection of West 110th Street and Manhattan Avenue. § 87(2)(b) rode his bicycle in

front of the marked car and made a left turn onto Manhattan Avenue, riding south in the northbound lane. The officers followed § 87(2)(b)'s bicycle and stopped it at the intersection of West 109th Street and Manhattan Avenue.

As per both officers, neither of them saw § 87(2)(b)'s bicycle until it crossed in front of their vehicle after the light turned green. Police Officer Oquendo had to quickly press the brake to avoid striking § 87(2)(b) as did several drivers going in both directions on West 110th Street. They proceeded to stop § 87(2)(b)'s bicycle with the intention of issuing a summons to him.

It is undisputed that, upon approaching § 87(2)(b) the officers informed him that he had committed a traffic infraction and requested his identification. As per § 87(2)(b) PO Oquendo informed him that he had "run" a red light while PO Aaronson informed him that he had obstructed their vehicle. As per both officers, they requested § 87(2)(b)'s identification in order to issue a summons to him for obstructing vehicular traffic by cutting across traffic and forcing the officers' vehicle and other vehicles to stop suddenly. § 87(2)(b) refused to provide his identification to the officers because he believed that in New York State he was not required to give his identification when requested by officers. As per § 87(2)(b) over the course of approximately three minutes, the officers requested his identification approximately four to five more times and he refused to provide it. As per the officers, at this point they decided to handcuff § 87(2)(b) and take him to the stationhouse in order to identify him in order to issue a summons to him.

According to § 87(2)(b) at this point the officers grabbed his arms and back and attempted to push him towards the hood of the marked SUV. § 87(2)(b) also felt one of the officers attempting to pull his left arm behind his back. § 87(2)(b) stiffened his arms and body in order to prevent the officers from arresting him due to the fact that he did not know why they were trying to arrest him. § 87(2)(b) repeatedly asked the officers why they were arresting him but neither officer replied. The officers did not inform him prior to grabbing him that they were going to arrest him and did not give him any instructions after grabbing him. § 87(2)(b) did not move his arms or legs or attempt to pull away.

§ 87(2)(b) felt one of the officers, he was unsure which one, grabbing his legs and pulling them out from underneath him. The officers proceeded to take § 87(2)(b) to the ground, with an officer still holding his right arm but with his left arm free. § 87(2)(b) landed on the ground with his left hand on the ground and the left side of his face on the back of his left hand. § 87(2)(b) felt his right arm pulled behind his back. Police Officer Oquendo placed his knee on the right side of § 87(2)(b)'s head, just behind his right ear, and repeatedly told him to "stop resisting." § 87(2)(b) stated that, aside from keeping his body stiff and keeping his arm underneath his head, he did not resist in any way.

Approximately 10 to 15 seconds after § 87(2)(b) was taken to the ground, Police Officer Oquendo removed his knee from § 87(2)(b)'s head and § 87(2)(b)'s hand came out from underneath his head, causing the left side of his face to scrape against the ground and causing a scrape of his face (BR11). The officers quickly handcuffed § 87(2)(b) and, approximately 15 to 20 seconds after he was taken to the ground, Police Officer Oquendo and Police Officer Aaronson lifted him to his feet. § 87(2)(b)'s backpack remained on his back throughout and he was handcuffed with his

hands beneath the backpack, causing all of the “pretty heavy” weight of the backpack to fall on his hands and causing his right thumb to become numb due, he believed, to a lack of blood circulation. This caused a small cut on § 87(2)(b)'s right wrist (BR12). § 87(2)(b) did not seek medical attention for these injuries.

As per both officers, when they grabbed § 87(2)(b)'s arms, he resisted by stiffening his arms, twisting his body, and pulling away from them. Police Officer Oquendo acknowledged trying to “trip” § 87(2)(b) with his foot but stated, as did Police Officer Aaronson, that all three of them fell to the ground as a result of the momentum of the struggle with § 87(2)(b). Both officers denied having grabbed § 87(2)(b)'s legs with their hands while he was on his feet. Once on the ground, § 87(2)(b) held his hands underneath his body and refused to release them. As per Police Officer Oquendo, he placed a knee on the back of § 87(2)(b)'s shoulder in order to keep him from moving and proceeded to grab and handcuff his right arm and then his left. Both officers denied having placed a knee on § 87(2)(b)'s head.

When the officers grabbed him, § 87(2)(b) shouted repeatedly, “Help, somebody come see this...help, help.” § 87(2)(b) wanted to bring attention to himself “because of all the incidents that happened lately as far as black people getting shot by police officers, I don’t want to be another hashtag.” He observed approximately five individuals stop to watch. One of these individuals, § 87(2)(b) provided a statement to the CCRB.

As per § 87(2)(b) when she first observed them, § 87(2)(b) had his arms raised straight up in the air above his head and was twisting his body from side to side. The officers appeared to be trying to grab his arms. § 87(2)(b) was yelling and repeatedly asked the officers why they were “doing this” and the officers were repeatedly told him to calm down. As the struggle progressed, approximately six to eight individuals surrounded § 87(2)(b) and the officers, standing within “inches” of them, and yelling at the officers. The individuals partially blocked § 87(2)(b)'s view of the struggle. Approximately two minutes after she first observed the incident, § 87(2)(b) observed the officers and § 87(2)(b) go to the ground. Because of the crowd around them, § 87(2)(b) could not see how they ended up on the ground or what occurred on the ground. Approximately a minute later, § 87(2)(b) observed the officers and § 87(2)(b) back on their feet. § 87(2)(b) left at this point and did not see how the incident concluded.

Penal Law Section 35.30 and Patrol Guide Procedure 203-11 (BR13) hold that officers are able to use physical force to overcome resistance in the course of effecting an arrest.

While the details are disputed, the core of what occurred is undisputed. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority – At the 24th Precinct stationhouse, Police Officer Jacob Aaronson damaged § 87(2)(b) s property.

It is undisputed that § 87(2)(b) was handcuffed with his backpack (BR01&02) still on his back and that, sometime after he was handcuffed, Police Officer Aaronson cut the bottom of the straps of the backpack (BR03-06) and removed the backpack. What remains in dispute are where this occurred and the reasons why it occurred.

As per § 87(2)(b) while he was in front of the desk at the 24th Precinct stationhouse, he informed the officers that he could not feel his thumb because of the weight of the backpack on his handcuffed hands and how tightly he was handcuffed. An officer, identified by both Police Officer Oquendo and a Police Officer Aaronson as Police Officer Aaronson, replied that he was going to loosen the handcuffs and then proceeded to use a knife to cut the straps of § 87(2)(b) s backpack. Police Officer Aaronson took the backpack off and then loosened § 87(2)(b) s handcuffs. Police Officer Aaronson then placed the bag on a table and searched it.

Police Officer Aaronson recalled having cut the straps of the backpack but did not definitively recall whether he did so at the incident location or at the stationhouse. Police Officer Aaronson believed that he most likely cut off the straps in order to remove it prior to § 87(2)(b) being placed into a police vehicle to be transported to the stationhouse because he and § 87(2)(b) had just been involved in a “fight” and he was afraid that § 87(2)(b) would start fighting with him again if he was uncuffed. Once he arrived at the stationhouse, Police Officer Aaronson searched § 87(2)(b) s backpack in front of the desk.

As per Police Officer Oquendo, when he and Police Officer Aaronson arrived at the stationhouse, § 87(2)(b) was still in handcuffs with his backpack on. Police Officer Aaronson cut the straps on § 87(2)(b) s backpack in front of the desk, removed it from his back, and proceeded to search it. Police Officer Oquendo believed that the straps of the bag were cut in order to remove it in order to search it. He believed that the straps were cut rather than § 87(2)(b) being uncuffed because § 87(2)(b) was “still kinda heated up from the incident and he was pretty angry.” Police Officer Oquendo stated that, due to § 87(2)(b) s apparent anger, he was kept in handcuffs until he was brought into the cells, at which point he was uncuffed. Police Officer Oquendo stated that § 87(2)(b) was silent throughout his time in the stationhouse but that he exhibited anger though his tenseness and how he was looking at the officers.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

When a prisoner is brought to the stationhouse, an officer shall conduct a search of the individual to ensure safety and for contraband. As part of this search, officers may remove and search outer garments, including bags and wallets, from the prisoner. Patrol Guide Procedures 208-05 (BR14).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b)

Reviewer: _____

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Title/Signature	Print	Date